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KIMBERLY PEREZ

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KIMBERLY PEREZ, individually and as  
successor-in-interest to Maurice Holly, Sr.,  
deceased,

Plaintiff,

vs.

COUNTY OF SACRAMENTO, a public  
entity; MAURICE HOLLEY, JR., a  
nominal defendant; ANGEL HOLLEY, a  
nominal defendant; MITRA HOLLEY, a  
nominal defendant; and DOES 1-10,  
inclusive,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES**

1. Fourth Amendment-Detention and Arrest  
(42 U.S.C. § 1983)
2. Fourth Amendment-Excessive Force  
(42 U.S.C. § 1983)
3. Fourth Amendment -Denial of Medical  
Care (42 U.S.C. § 1983)
4. Substantive Due Process  
(42 U.S.C. § 1983)
5. Municipal Liability-Ratification  
(42 U.S.C. § 1983)
6. Municipal Liability-Inadequate Training  
(42 U.S.C. § 1983)
7. Municipal Liability-Unconstitutional  
Custom, Practice, or Policy  
(42 U.S.C. § 1983)
8. False Arrest/False Imprisonment
9. Battery (Wrongful Death)
10. Negligence (Wrongful Death)
11. Violation of Cal. Civil Code § 52.1

**DEMAND FOR JURY TRIAL**

**COMPLAINT FOR DAMAGES**

COMES NOW, Plaintiff KIMBERLY PEREZ, individually and as a successor-in-interest to MAURICE HOLLEY, SR., deceased, for her Complaint against Defendants COUNTY OF SACRAMENTO, MAURICE HOLLEY, JR., ANGEL HOLLEY, MITRA HOLLEY and DOES 1-10, inclusive, and alleges as follows:

**JURISDICTION AND VENUE**

1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United States including 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution. This Court has supplemental jurisdiction over Plaintiff's claims arising under state law pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

2. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants reside in this district and all incidents, events, and occurrences giving rise to this action occurred in this district.

**INTRODUCTION**

3. This civil rights and state tort action seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution and state law in connection with the fatal officer-involved shooting of Plaintiff's husband, Maurice Holley, Sr. ("Decedent"), on October 6, 2019.

**PARTIES**

4. At all relevant times, Decedent Maurice Holley, Sr. was an individual residing in the County of Sacramento, California.

5. Plaintiff KIMBERLY PEREZ ("PEREZ") is an individual residing in the County of Sacramento, California and is the surviving common law spouse of Decedent. PEREZ sues both in her individual capacity as the surviving spouse of Decedent and in a representative capacity as a successor-in-interest to Decedent pursuant to California Code of Civil Procedure § 377.60. PEREZ seeks both survival and wrongful death damages under federal and state law.

6. Defendant MAURICE HOLLEY, JR. is the biological son of decedent Maurice Holley,

1 Sr., and is joined in this lawsuit as a nominal defendant pursuant to Code of Civil Procedure section  
2 382.

3 7. Defendant ANGEL HOLLEY is the biological son of decedent Maurice Holley, and is  
4 joined in this lawsuit as a nominal defendant pursuant to Code of Civil Procedure section 382.

5 8. Defendant MITRA HOLLEY, is the biological daughter of decedent Maurice Holley,  
6 and is joined in this lawsuit as a nominal defendant pursuant to Code of Civil Procedure section 382.

7 9. At all relevant times, Defendant COUNTY OF SACRAMENTO ("COUNTY") is and  
8 was a municipal corporation existing under the laws of the State of California. COUNTY is a chartered  
9 subdivision of the State of California with the capacity to be sued. COUNTY is responsible for the  
10 actions, omissions, policies, procedures, practices, and customs of its various agents and agencies,  
11 including the Sacramento Sheriff Department ("SSD") and its agents and employees. At all relevant  
12 times, Defendant COUNTY was responsible for assuring that the actions, omissions, policies,  
13 procedures, practices, and customs of the SSD and its employees and agents complied with the laws of  
14 the United States and of the State of California. At all relevant times, COUNTY was the employer of  
15 Defendants DOES 1-10.

16 10. Defendant DOE 1 ("DOE DEPUTY") is a police officer for the SSD. DOE DEPUTY  
17 was acting under color of law within the course and scope of his duties as an officer for the SSD at all  
18 relevant times. Also at all relevant times, DOE DEPUTY was acting with the complete authority and  
19 ratification of their principal, Defendant COUNTY.

20 11. Defendants DOES 2-6 are supervisory officers for the SSD who were acting under color  
21 of law within the course and scope of their duties as officers for the SSD. DOES 2-6 were acting with  
22 the complete authority and ratification their principal, Defendant COUNTY.

23 12. Defendants DOES 7-10 are managerial, supervisory, and policymaking employees of  
24 the SSD, who were acting under color of law within the course and scope of their duties as managerial,  
25 supervisory, and policymaking employees for the SSD. DOES 7-10 were acting with the complete  
26 authority and ratification of their principal, Defendant COUNTY.

27 13. On information and belief, DOES 1-10 were residents of or employed by the County of  
28 Sacramento.

1           14. In doing the acts and failing and omitting to act as hereinafter described, Defendant  
2 DOE DEPUTY was acting on the implied and actual permission and consent of Defendants SSD and  
3 DOES 2-10.

4           15. In doing the acts and failing and omitting to act as hereinafter described, Defendants  
5 DOES 1-10 were acting on the implied and actual permission and consent of the COUNTY.

6           16. The true names and capacities, whether individual, corporate, association or otherwise  
7 of Defendants DOES 1-10, inclusive, are unknown to Plaintiff, who otherwise sues these Defendants  
8 by such fictitious names. Plaintiff may seek leave to amend this complaint to show the true names and  
9 capacity of these Defendants when they have been ascertained and new information comes to light.  
10 Each of the fictitiously-named Defendants is responsible in some manner for the conduct or liabilities  
11 alleged herein.

12           17. At all times mentioned herein, each and every defendant was the agent of each and every  
13 other defendant and had the legal duty to oversee and supervise the hiring, conduct, and employment  
14 of each and every defendant.

15           18. All of the acts complained of herein by Plaintiff against Defendants were done and  
16 performed by said Defendants by and through their authorized agents, servants, and/or employees, all  
17 of whom at all relevant times herein were acting within the course, purpose, and scope of said agency,  
18 service, and/or employment capacity. Moreover, Defendants and their agents ratified all of the acts  
19 complained of herein.

20           19. DOES 1-10 are sued in their individual capacity.

21                   **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

22           20. Plaintiff PEREZ repeats and re-alleges each and every allegation in paragraphs 1  
23 through 19 of this Complaint with the same force and effect as if fully set forth herein.

24           21. On October 6, 2019 at approximately 2:36 p.m., on or near 13626 Bennett Road in the  
25 City of Herald, County of Sacramento, DOE DEPUTY initiated a wellness stop on DECEDENT,  
26 MAURICE HOLLEY, SR. DECEDENT was asleep on the side of the road and presented no apparent  
27 threat or harm to DOE DEPUTY. DOE DEPUTY woke DECEDENT from his sleep and proceeded to  
28 approach DECEDENT. DOE DEPUTY was a safe speaking distance away from DECEDENT and

1 began asking DECEDENT questions. DECEDENT was cooperating with DOE DEPUTY'S commands  
2 and answering DOE DEPUTY'S questions. DECEDENT attempted to rise to his feet. DECEDENT  
3 was instructed by DOE DEPUTY to stay on his butt and DECEDENT complied. In an attempt to make  
4 himself comfortable DECEDENT sat on his butt and placed his hands near his hips. DOE DEPUTY  
5 saw a weapon and shouted "Gun!" Rather than instruct DECEDENT with other commands DOE  
6 DEPUTY under color of law and in the course and scope of their duties, shot DECEDENT multiple  
7 times, thereby using excessive force against him and killing him. The officer-involved shooting  
8 occurred on or near 13626 Bennet Road.

9 22. At all relevant times, DECEDENT did not pose an immediate threat of death or serious  
10 bodily injury to himself or to anyone else, including DOE DEPUTY.

11 23. Upon information and belief, after being shot, DECEDENT was immobile and in  
12 obvious and critical need of emergency medical care and treatment. Defendants did not timely summon  
13 medical care or permit medical personnel to treat DECEDENT. The delay of medical care to  
14 DECEDENT caused DECEDENT extreme physical and emotional pain and suffering, and was a  
15 contributing cause of DECEDENT's serious injuries.

16 24. Plaintiff PEREZ was dependent on DECEDENT, to some extent, for the necessities of  
17 life.

18 25. Plaintiff PEREZ is DECEDENT'S successor-in-interest as defined in Section 377.11 of  
19 the California Code of Civil Procedure and succeeds to DECEDENT's interest in this action as the  
20 surviving spouse of DECEDENT.

21 26. Plaintiff incurred funeral and burial expenses as a result of Defendants' misconduct.

22 27. On March 25, 2020, Plaintiff filed a claim for damages with the County of Sacramento.

23 28. The claim was rejected by operation of law on February 16, 2021.

24 **FIRST CLAIM FOR RELIEF**

25 **Fourth Amendment-Detention and Arrest (42 U.S.C. § 1983)**

26 **(Against DOE DEPUTY)**

27 29. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 28 of  
28 this Complaint with the same force and effect as if fully set forth herein.

1           30.     DOE DEPUTY detained DECEDENT without reasonable suspicion or probable cause.

2           31.     DOE DEPUTY shot DECEDENT and placed him in handcuffs, he violating  
3 DECEDENT's right to be secure in his person against unreasonable searches and seizures as guaranteed  
4 to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state  
5 actors by the Fourteenth Amendment.

6           32.     The conduct of DOE DEPUTY was willful, wanton, malicious, and done with reckless  
7 disregard for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary  
8 and punitive damages as to DOE DEPUTY.

9           33.     As a result of his misconduct, Defendant DOE DEPUTY is liable for DECEDENT'S  
10 injuries, either because he was an integral participant in the wrongful detention and arrest, or because  
11 he failed to intervene to prevent these violations.

12           34.     Plaintiff PEREZ brings this claim as a successor-in-interest to DECEDENT, and seeks  
13 both survival and wrongful death damages for the violation of DECEDENT'S rights. Plaintiff also seeks  
14 attorney's fees and funeral and burial expenses.

15                   **SECOND CLAIM FOR RELIEF**

16                   **Fourth Amendment-Excessive Force (42 U.S.C. § 1983)**

17                   **(Against DOE DEPUTY)**

18           35.     Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 34 of  
19 this Complaint with the same force and effect as if fully set forth herein.

20           36.     Defendant DOE DEPUTY used excessive force against DECEDENT when he shot him.  
21 Defendant DOE DEPUTY'S unjustified shooting deprived DECEDENT of his right to be secure in his  
22 person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth  
23 Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

24           37.     As a result of the foregoing, DECEDENT suffered great physical pain and emotional  
25 distress up to the time of his death, loss of enjoyment of life, loss of life, and loss of earning capacity.

26           38.     The conduct of DOE DEPUTY was willful, wanton, malicious, and done with reckless  
27 disregard for the rights and safety of DECEDENT, and therefore warrants the imposition of exemplary  
28 and punitive damages as to Defendant DOE DEPUTY.



1           39.     The shooting was excessive and unreasonable, especially because DECEDENT posed  
2 no immediate threat of death or serious bodily injury at the time of the incident. Further, Defendant  
3 DOE DEPUTY'S use of deadly force violated his training and standard police officer training.

4           40.     Plaintiff brings this claim as a successor-in-interest to the DECEDENT, and seeks both  
5 survival and wrongful death damages for the violation of DECEDENT'S rights. Plaintiff also seeks  
6 attorney's fees.

7                               **THIRD CLAIM FOR RELIEF**

8                               **Fourth Amendment-Denial of Medical Care (42 U.S.C. § 1983)**

9                               **(Against Defendant DOE DEPUTY)**

10           41.     Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 40 of  
11 this Complaint with the same force and effect as if fully set forth herein.

12           42.     The denial of medical care by Defendant DOE DEPUTY deprived DECEDENT of his  
13 right to be secure in his person against unreasonable searches and seizures as guaranteed to  
14 DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors  
15 by the Fourteenth Amendment.

16           43.     As a result of the foregoing, DECEDENT suffered great physical pain and emotional  
17 distress up to the time of his death, loss of enjoyment of life, loss of life, and loss of earning capacity.

18           44.     Defendant DOE DEPUTY knew that failure to provide timely medical treatment to  
19 DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain,  
20 but disregarded that serious medical need, causing DECEDENT great bodily harm and death.

21           45.     The conduct of DOE DEPUTY was willful, wanton, malicious, and done with reckless  
22 disregard for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary  
23 and punitive damages as to Defendant DOE DEPUTY.

24           46.     As a result of his misconduct, Defendant DOE DEPUTY is liable for DECEDENT'S  
25 injuries, either because he was an integral participant in the wrongful detention and arrest, or because  
26 he failed to intervene to prevent these violations.

27           47.     Plaintiff brings this claim as a successor-in-interest to the DECEDENT, and seeks both  
28 survival and wrongful death damages for the violation of DECEDENT'S rights. Plaintiff also seeks

1 attorney's fees.

2 **FOURTH CLAIM FOR RELIEF**

3 **Substantive Due Process (42 U.S.C. § 1983)**

4 **(Against Defendant DOE DEPUTY)**

5 48. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 47 of  
6 this Complaint with the same force and effect as if fully set forth herein.

7 49. Plaintiff PEREZ had a cognizable interest under the Due Process Clause of the  
8 Fourteenth Amendment of the United States Constitution to be free from state actions that deprive her  
9 of life, liberty, or property in such a manner as to shock the conscience, including but not limited to  
10 unwarranted state interference in Plaintiff's marital relationship with her spouse, DECEDENT.

11 50. DECEDENT had had a cognizable interest under the Due Process Clause of the  
12 Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him  
13 of life, liberty, or property in such a manner as to shock the conscience.

14 51. The aforementioned actions of DOE DEPUTY, along with other undiscovered conduct,  
15 shock the conscience, in that he acted with deliberate indifference to the constitutional rights of  
16 DECEDENT and Plaintiff, and with purpose to harm unrelated to any legitimate law enforcement  
17 objective.

18 52. As a direct and proximate result of these actions, DECEDENT experienced pain and  
19 suffering and eventually died. DOE DEPUTY thus violated the substantive due process rights of  
20 Plaintiff to be free from unwarranted interference with her marital relationship with DECEDENT.

21 53. As a direct and proximate cause of the acts of DOE DEPUTY, Plaintiff suffered  
22 emotional distress, mental anguish, and pain. Plaintiff has also been deprived of the life-long love,  
23 companionship, comfort, support, society, care, and sustenance of DECEDENT, and will continue to  
24 be so deprived for the remainder of her natural life.

25 54. The conduct of DOE DEPUTY was willful, wanton, malicious, and done with reckless  
26 disregard for the rights and safety of DECEDENT and Plaintiff and therefore warrants the imposition  
27 of exemplary and punitive damages as to Defendant DOE DEPUTY.

28 55. Plaintiff brings this claim individually and as a successor-in-interest to DECEDENT



1 and seeks both survival and wrongful death damages. Plaintiff also seeks attorney's fees.

2 **FIFTH CLAIM FOR RELIEF**

3 **Municipal Liability - Ratification (42 U.S.C. § 1983)**

4 **(Against Defendants COUNTY and DOES 2-10)**

5 56. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 55 of  
6 this Complaint with the same force and effect as if fully set forth herein.

7 57. Defendant DOE DEPUTY acted under color of law.

8 58. The acts of Defendant DOE DEPUTY deprived DECEDENT and Plaintiff of their  
9 particular rights under the United States Constitution.

10 59. Upon information and belief, a final policymaker, acting under color of law, who had  
11 final policymaking authority concerning the acts of Defendant DOE DEPUTY, ratified Defendant DOE  
12 DEPUTY'S acts and the bases for them. Upon information and belief, the final policymaker knew of  
13 and specifically approved of Defendant DOE DEPUTY'S acts.

14 60. Upon information and belief, a final policymaker has determined (or will determine)  
15 that the acts of Defendant DOE DEPUTY were "within policy."

16 61. By reason of the aforementioned acts and omissions, Plaintiff has suffered loss of the  
17 love, companionship, affection, comfort, care, society, training, guidance, and past and future support  
18 of DECEDENT. The aforementioned acts and omissions also caused DECEDENT'S pain and  
19 suffering, loss of enjoyment of life, and death.

20 62. Accordingly, Defendants COUNTY and DOES 2-10 each are liable to Plaintiff for  
21 compensatory damages under 42 U.S.C. § 1983.

22 63. Plaintiff brings this claim as a successor-in-interest to DECEDENT, and seeks both  
23 survival and wrongful death damages under this claim. Plaintiff also seeks attorney's fees under this  
24 claim.

25 **SIXTH CLAIM FOR RELIEF**

26 **Municipal Liability - Failure to Train (42 U.S.C. § 1983)**

27 **(Against Defendants COUNTY and DOES 2-10)**

28 64. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 63 of

1 this Complaint with the same force and effect as if fully set forth herein.

2 65. Defendant DOE DEPUTY acted under color of law.

3 66. The acts of Defendant DOE DEPUTY deprived DECEDENT and Plaintiff of their  
4 particular rights under the United States Constitution.

5 67. The training policies of Defendant COUNTY were not adequate to train its officers to  
6 handle the usual and recurring situations with which they must deal.

7 68. Defendant COUNTY was deliberately indifferent to the obvious consequences of its  
8 failure to train its officers adequately.

9 69. The failure of Defendant COUNTY to provide adequate training caused the deprivation  
10 of Plaintiff's rights by Defendant DOE DEPUTY; that is, Defendant's failure to train is so closely  
11 related to the deprivation of the Plaintiff's rights as to be the moving force that caused the ultimate  
12 injury.

13 70. On information and belief, COUNTY failed to train DOE DEPUTY properly and  
14 adequately.

15 71. By reason of the aforementioned acts and omissions, Plaintiff PEREZ has suffered loss  
16 of the love, companionship, affection, comfort, care, society, training, guidance, and past and future  
17 support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT'S pain and  
18 suffering, loss of enjoyment of life, and death.

19 72. Accordingly, Defendants COUNTY and DOES 2-10 each are liable to Plaintiff for  
20 compensatory damages under 42 U.S.C. § 1983.

21 73. Plaintiff brings this claim as a successor-in-interest to DECEDENT, and seeks both  
22 survival and wrongful death damages under this claim. Plaintiff also seeks attorney's fees under this  
23 claim.

24 **SEVENTH CLAIM FOR RELIEF**

25 **Municipal Liability- Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

26 **(Against Defendants COUNTY and DOES 2-10)**

27 74. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 73 of  
28 this Complaint with the same force and effect as if fully set forth herein.

1           75. Defendant DOE DEPUTY acted under color of law.

2           76. Defendant DOE DEPUTY acted pursuant to an expressly adopted official policy or a  
3 longstanding practice or custom of the Defendant COUNTY.

4           77. On information and belief, Defendant DOE DEPUTY was not disciplined, reprimanded,  
5 retrained, suspended, or otherwise penalized in connection with DECEDENT'S death.

6           78. Defendants COUNTY and DOES 2-10, together with other COUNTY policymakers  
7 and supervisors, maintained, inter alia, the following unconstitutional customs, practices, and policies:

8               (a) Using excessive force, including excessive deadly force;

9               (b) Providing inadequate training regarding the use of deadly force; Employing  
10 and retaining as Sherriff Deputies such as Defendant DOE DEPUTY, whom Defendant COUNTY at  
11 all times material herein knew or reasonably should have known had dangerous propensities for  
12 abusing their authority and for using excessive force;

13               (d) Inadequately supervising, training, controlling, assigning, and disciplining  
14 COUNTY law enforcement and other personnel, including Defendant DOE DEPUTY, whom  
15 Defendant COUNTY knew or in the exercise of reasonable care should have known had the  
16 aforementioned propensities and character traits;

17               (e) Maintaining grossly inadequate procedures for reporting, supervising,  
18 investigating, reviewing, disciplining and controlling misconduct by COUNTY law enforcement  
19 officers, including Defendant DOE DEPUTY;

20               (f) Failing to adequately discipline COUNTY police officers, including Defendant  
21 DOE DEPUTY, for the above-referenced categories of misconduct, including "slaps on the wrist,"  
22 discipline that is so slight as to be out of proportion to the magnitude of the misconduct, and other  
23 inadequate discipline that is tantamount to encouraging misconduct;

24               (g) Encouraging, accommodating, or facilitating a "blue code of silence," "blue  
25 shield," "blue wall," "blue curtain," "blue veil," or simply "code of silence," pursuant to which law  
26 enforcement officers do not report other officers' errors, misconduct, or crimes. Pursuant to this code  
27 of silence, if questioned about an incident of misconduct involving another officer, while following  
28 the code, the officer being questioned will claim ignorance of the other officers' wrongdoing.

1 (h) Maintaining a policy of inaction and an attitude of indifference towards soaring  
2 numbers of police shootings and beatings, including by failing to discipline, retrain, investigate,  
3 terminate, and recommend officers for criminal prosecution who participate in shootings and beatings  
4 of unarmed people.

5 79. By reason of the aforementioned acts and omissions, Plaintiff has suffered loss of the  
6 love, companionship, affection, comfort, care, society, training, guidance, and past and future support  
7 of DECEDENT. The aforementioned acts and omissions also caused DECEDENT'S pain and  
8 suffering, loss of enjoyment of life, and death.

9 80. Defendants COUNTY and DOES 2-10, together with various other officials, whether  
10 named or unnamed, had either actual or constructive knowledge of the deficient policies, practices  
11 and customs alleged in the paragraphs above. Despite having knowledge as stated above, these  
12 defendants condoned, tolerated and through actions and inactions thereby ratified such policies. Said  
13 defendants also acted with deliberate indifference to the foreseeable effects and consequences of  
14 these policies with respect to the constitutional rights of DECEDENT, Plaintiff, and other individuals  
15 similarly situated.

16 81. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct and other  
17 wrongful acts, DOES 2-10 acted with intentional, reckless, and callous disregard for the life of  
18 DECEDENT and for DECEDENT'S and Plaintiff's constitutional rights. Furthermore, the policies,  
19 practices, and customs implemented, maintained, and still tolerated by Defendants COUNTY and  
20 DOES 2-10 were affirmatively linked to and were a significantly influential force behind the injuries  
21 of DECEDENT and Plaintiff.

22 82. Accordingly, Defendants COUNTY and DOES 2-10 each are liable to Plaintiff for  
23 compensatory damages under 42 U.S.C. § 1983.

24 83. Plaintiff brings this claim individually and as a successor-in-interest to DECEDENT,  
25 and seeks both survival and wrongful death damages under this claim. Plaintiff also seeks attorneys'  
26 fees under this claim.

27 ///

**EIGHTH CLAIM FOR RELIEF**

**False Arrest/False Imprisonment**

**(Against Defendants COUNTY and DOE DEPUTY)**

84. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 83 of this Complaint with the same force and effect as if fully set forth herein.

85. Defendant DOE DEPUTY, while working as an officer for the SSD and acting within the course and scope of his duties, intentionally deprived DECEDENT of his freedom of movement by use of force, threats of force, menace, fraud, deceit, and unreasonable duress. DOE DEPUTY detained DECEDENT without reasonable suspicion and arrested him without probable cause.

86. DECEDENT did not knowingly or voluntarily consent.

87. Defendant DOE DEPUTY detained DECEDENT for an appreciable amount of time.

88. The conduct of DOE DEPUTY was a substantial factor in causing the harm to DECEDENT.

89. Defendant COUNTY is vicariously liable for the wrongful acts of Defendant DOE DEPUTY pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

90. The conduct of DOE DEPUTY was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of DECEDENT, entitling Plaintiff to an award of exemplary and punitive damages.

91. As a result of his misconduct, Defendant DOE DEPUTY is liable for DECEDENT'S injuries, either because he was an integral participant in the wrongful detention and arrest, or because he failed to intervene to prevent these violations.

**NINTH CLAIM FOR RELIEF**

**Battery**

**(Wrongful Death)**

**(Against Defendants COUNTY and DOE DEPUTYS)**

92. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 91 of

1 this Complaint with the same force and effect as if fully set forth herein.

2 93. DOE DEPUTY, while working as an officer for the SSD, and acting within the course  
3 and scope of his duties, intentionally shot DECEDENT multiple times, and used unreasonable and  
4 excessive force against him. As a result of the actions of DOE DEPUTY, DECEDENT suffered  
5 severe pain and suffering and ultimately died from his injuries. DOE DEPUTY had no legal  
6 justification for using force against DECEDENT, and his use of force while carrying out his duties as  
7 a police officer was an unreasonable and unprivileged use of force.

8 94. As a direct and proximate result of the conduct of DOE DEPUTY as alleged above,  
9 DECEDENT sustained injuries and died from his injuries and also lost his earning capacity. As a  
10 direct and proximate result of the conduct of DOE DEPUTY as alleged above, DECEDENT suffered  
11 survival damages pursuant to Code of Civil Procedure Section 377.34.

12 95. COUNTY is vicariously liable for the wrongful acts of Defendant DOES 1-10  
13 pursuant to section 815.2(a) of the California Government Code, which provides that a public entity  
14 is liable for the injuries caused by its employees within the scope of the employment if the  
15 employee's act would subject him or her to liability.

16 96. The conduct of DOE DEPUTY is malicious, wanton, oppressive, and accomplished  
17 with a conscious disregard for the rights of Plaintiff and DECEDENT, entitling Plaintiff, individually  
18 and as successor-in-interest to DECEDENT, to an award of exemplary and punitive damages as to  
19 Defendant DOE DEPUTY.

20 97. Plaintiff brings this claim as a successor-in-interest to DECEDENT and seeks both  
21 survival and wrongful death damages under this claim.

22 **TENTH CLAIM FOR RELIEF**

23 **Negligence**

24 **(Wrongful Death)**

25 **(Against all Defendants)**

26 98. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 97 of  
27 this Complaint with the same force and effect as if fully set forth herein.

28 99. Police officers, including Defendants, have a duty to use reasonable care to prevent



1 harm or injury to others. This duty includes using appropriate tactics, giving appropriate commands,  
2 giving warnings, and not using any force unless necessary, using less than lethal options, and only  
3 using deadly force as a last resort.

4 100. Defendants DOES 1-10 breached this duty of care. Upon information and belief, the  
5 actions and inactions of Defendants DOES 1-10 were negligent and reckless, including but not  
6 limited to:

7 (a) the failure to properly and adequately assess the need to detain, arrest, and use  
8 of force or deadly force against DECEDENT;

9 (b) the negligent tactics and handling of the situation with DECEDENT, including  
10 pre-shooting negligence;

11 (c) the negligent detention, arrest, and use of force, including deadly force, against  
12 DECEDENT;

13 (d) the failure to provide prompt medical care to DECEDENT;

14 (e) the failure to properly train and supervise employees, both professional and  
15 non-professional, including DOE DEPUTY;

16 (f) the failure to ensure that adequate numbers of employees with appropriate  
17 education and training were available to meet the needs of and protect the rights of DECEDENT;

18 (g) the negligent handling of evidence and witnesses; and

19 (h) the negligent communication of information during the incident.

20 101. As a direct and proximate result of Defendants' conduct as alleged above, and other  
21 undiscovered negligent conduct, DECEDENT was caused to suffer severe pain and suffering and  
22 ultimately died. Also as a direct and proximate result of Defendants' conduct as alleged above,  
23 Plaintiff suffered emotional distress and mental anguish. Plaintiff also has been deprived of the life-  
24 long love, companionship, comfort, support, society, care and sustenance of DECEDENT, and will  
25 continue to be so deprived for the remainder of her natural life.

26 102. COUNTY is vicariously liable for the wrongful acts of Defendants DOES 2-10  
27 pursuant to section 815.2(a) of the California Government Code, which provides that a public entity  
28 is liable for the injuries caused by its employees within the scope of the employment if the

1 employee's act would subject him or her to liability.

2 103. Plaintiff brings this claim as a successor-in-interest to DECEDENT and seeks  
3 wrongful death damages under this claim.

4 **ELEVENTH CLAIM FOR RELIEF**

5 **(Violation of Cal. Civil Code§ 52.1)**

6 **(Against all Defendants)**

7 104. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 103  
8 of this Complaint with the same force and effect as if fully set forth herein.

9 105. California Civil Code, Section 52.1 (the Bane Act), prohibits any person from using  
10 violent acts or threatening to commit violent acts in retaliation against another person for exercising  
11 that person's constitutional rights.

12 106. On information and belief, Defendant DOE DEPUTY, while working for the  
13 COUNTY and acting within the course and scope of his duties, intentionally committed and  
14 attempted to commit acts of violence against DECEDENT, including shooting him without  
15 justification or excuse, by integrally participating and failing to intervene in the above violence, and  
16 by denying him necessary medical care.

17 107. When Defendant DOE DEPUTY shot DECEDENT, he interfered with DECEDENT'S  
18 civil rights to be free from unreasonable searches and seizures, to due process, to equal protection of  
19 the laws, to medical care, to be free from state actions that shock the conscience, and to life, liberty,  
20 and property.

21 108. On information and belief, Defendants intentionally and spitefully committed the  
22 above acts to discourage DECEDENT from exercising his civil rights, to retaliate against him for  
23 invoking such rights, or to prevent him from exercising such rights, which he was fully entitled to  
24 enjoy.

25 109. On information and belief, DECEDENT reasonably believed and understood that the  
26 violent acts committed by Defendant DOE DEPUTY were intended to discourage him from  
27 exercising the above civil rights, to retaliate against him for invoking such rights, or to prevent him  
28 from exercising such rights.

110. As such, Defendants successfully interfered with the above civil rights of DECEDENT and Plaintiff.

111. The conduct of Defendants was a substantial factor in causing Plaintiff's harms, losses, injuries, and damages.

112. COUNTY is vicariously liable for the wrongful acts of Defendant DOE DEPUTY, inclusive pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

113. Defendants DOES 2-10 are vicariously liable under California law and the doctrine of respondeat superior.

114. The conduct of Defendants was malicious, wanton, oppressive, and accomplished with a conscious disregard for DECEDENT'S and Plaintiff's rights, justifying an award of exemplary and punitive damages as to Defendant DOE DEPUTY.

115. Plaintiff seeks attorney's fees under this claim.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff KIMBERLY PEREZ, individually and as a successor-in-interest to MAURICE HOLLEY, SR., deceased, requests entry of judgment in her favor and against Defendants County of Sacramento, and Does 1-10, inclusive, as follows:

A. For compensatory damages in whatever amount may be proven at trial, including both survival damages and wrongful death damages under federal and state law;

B. For funeral and burial expenses, and loss of financial support;

C. For punitive damages against the individual defendants in an amount to be proven at trial;

D. For statutory damages;

E. For interest;

F. For reasonable attorneys' fees, including litigation expenses;

G. For costs of suit; and

H. For such further other relief as the Court may deem just, proper, and appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

Date: February 23, 2021

THE LAW OFFICES OF TED A. GREENE, INC.

By: 

Glen F. Olives, Esq.  
Attorneys for Plaintiff,  
KIMBERLY PEREZ